

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

*In re: Kenneth Wenning
and Linda Wenning,*

Chapter 7
Bky. No. 03-42609

Debtor(s).

**NOTICE OF HEARING AND MOTION
OBJECTING TO CLAIM OF CREDITOR
(CLAIM NO. 11)**

TO: Entities specified in Local Rule 3007-1.

1. Terri A. Georgen-Running, trustee (the "Trustee") of the bankruptcy estate of the above-named Debtor(s) moves the Court for the relief requested below and gives notice of hearing.

2. A hearing will be held on this motion by the Honorable Nancy C. Dreher, Courtroom No. 7 West, 7th Floor - United States Courthouse, 300 S. Fourth Street, Minneapolis, Minnesota on **September 22, 2004** at 10:30 **a.m.**, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be filed and delivered not later than September 15, 2004, which is seven (7) days before the hearing date, including intermediate Saturdays, Sundays and legal holidays, or filed and served by mail not later than September 10, 2004, which is ten (10) days before the hearing date, including intermediate Saturdays, Sundays and legal holidays. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, FED. R. BANKR. P. 5005 and Local Rule 1070-1. This is a core proceeding. The petition commencing this Chapter 7 case was filed on April 10, 2003 and is now pending before this court.

5. This motion arises under 11 U.S.C. §§502 and 704, FED. R. BANKR. P. 3002 and 3007 and Local Rule 3007-1. This motion is filed under FED. R. BANKR. P. 9014 and 9014 and Local Rule 9013. The Trustee requests relief with respect to Claim No. 11 filed in the Debtor(s)' case.

6. ALS IBA ("Claimant") filed a proof of claim on October 14, 2003, asserting an unsecured non-priority claim in the amount of \$2,286.73 plus interest. The proof of claim indicates that the basis for the claim is goods sold. The proof of claim indicates that it includes \$567.38 in interest on a balance of \$1,719.35.

7. There does not appear to be any basis for including pre-petition interest on the claim, no basis for including post-petition interest on the claim, and no way of determining whether the interest charged is pre-petition (if there is a basis for charging interest), post-petition, or both.

WHEREFORE, the Trustee respectfully requests that the Court disallow Claim No. 11 of Claimant to the extent that it exceeds the principal amount due - \$1,719.35 and such other relief as may be just and equitable.

Dated: August 23, 2004

GEORGEN-RUNNING LAW FIRM

A Professional Corporation

By: /s/ Terri A. Georgen-Running

Terri A. Georgen-Running (No. 238338)

P.O. Box 16355

St. Paul, MN 55116

(651) 699-6980

(651) 292-1234 *Facsimile*

ATTORNEYS FOR THE TRUSTEE

VERIFICATION. I, Terri A. Georgen-Running, the moving party named in the foregoing notice of hearing and motion declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: August 23, 2004

/s/ Terri A. Georgen-Running
Terri A. Georgen-Running, Trustee

UNITED STATES BANKRUPTCY COURT
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UNSWORN DECLARATION FOR PROOF OF SERVICE

I, Terri A. Georgen, declare that on the date indicated below, I served the following:

(1) Notice of Hearing and Motion Objecting to Claim of Creditor; (2) Unsworn Declaration for Proof of Service; and (3) Proposed Order

upon each of the entities named below, by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at St. Paul, Minnesota, addressed to each of them as follows:

UNITED STATES TRUSTEE
1015 U.S. COURTHOUSE
300 SOUTH FORTH STREET
MINNEAPOLIS, MN 55415

ALS ABI
416 1ST ST. NW
P.O. BOX 577
RICHMOND, MN 56368

KENNETH WENNING
LINDA WENNING
20398 410TH ST
ALBANY, MN 56307

ROBERT KALENDA, ESQ.
919 W. ST. GERMAIN, STE 2000
ST. CLOUD, MN 56301

And I declare under penalty of perjury that the foregoing is true and correct.

Date: August 23, 2004

e/ Terri A. Georgen-Running

UNITED STATES BANKRUPTCY COURT
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ORDER

At Minneapolis, Minnesota, _____, 2003

The above-entitled matter came before the Court on the Objection to Claim of Creditor filed by the Trustee. Appearances, if any, were as noted upon the record. Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. The claim of ALS IBA, filed in the Debtor(s)' bankruptcy case as Claim No. 11, is disallowed to the extent that it exceeds \$1,719.35 – the principal amount due under the invoices.
2. Claim No. 11, is allowed as an unsecured, non-priority claim in the amount of \$1,719.35.

Judge
UNITED STATES BANKRUPTCY JUDGE